IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 1115 of 1999

        in

SPECIAL CIVIL APPLICATIONNo 5031   of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE J.N.BHATT and
        MR.JUSTICE H.K.RATHOD
===
1. Whether Reporters of Local Papers may be allowed   : NO
   to see the judgements?

2. To be referred to the Reporter or not?   : NO

3. Whether Their Lordships wish to see the fair copy   : NO
   of the judgement?

4. Whether this case involves a substantial question   : NO
   of law as to the interpretation of the Constitution
   of India, 1950 of any Order made thereunder?

5. Whether it is to be circulated to the Civil Judge?   : NO

   VIPUL M MEHTA
Versus
   STATE OF GUJARAT

   Appearance:
        MR DIVYESH SEJPAL for Appellant
        MR SP HASURKAR FOR for the respondents.

   CORAM : MR.JUSTICE J.N.BHATT and
           MR.JUSTICE H.K.RATHOD
   Date of decision: 13/10/1999

ORAL JUDGEMENT (Per J.N.Bhatt, J.)
   Admit. Service of notice is waived by Mr Hasurkar for

the respondents.

The attention of this Court was invited to the fact that the main Special Civil Application was dismissed on the ground that against the impugned action of the respondents, efficacious alternative remedy is available before the Gujarat Civil Services Tribunal, whereas, in case of the appellant-original petitioner, since he belongs to gazetted officers cadre, the Tribunal has no jurisdiction to entertain the claim and the dispute raised by the original petitioner. Unfortunately, this proposition of law was not brought to the notice of the learned single Judge. Therefore, it is, jointly, submitted that the matter is required to be remanded to the learned single Judge for deciding the petition upon merits.

After having considered the facts and the aforesaid submission, the matter is remanded to the learned single Judge for considering the same on merits against the impugned action of the respondents by quashing and setting aside the impugned order recorded on 29th July, 1999. This Letters Patent Appeal is accordingly allowed without any order as to costs.

.....

(vjn)